

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Permit Application Review Timeline
(LAC 33:I.1501, 1503, and 1505) (OS075)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.1501, 1503, and 1505 (Log #OS075).

This rule reduces the time frame for environmental permit application administrative completeness reviews from 110 days to 60 days. This rule also reduces the time for making a final decision on permit applications from 410 days to 300 days. Definitions have been added to provide the applicant with more detail regarding the application review process, and provisions have been added to correct incompleteness in permit applications and for suspension of applications pending such supplemental information. This rule implements Act 117 of the 2006 Regular Session of the Louisiana Legislature, which revised these time frames. The basis and rationale for this rule are to incorporate into the regulations the statutory revisions enacted by Act 117.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on May 30, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS075. Such comments must be received no later than June 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS075. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

Title 33
Environmental Quality

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 15. Permit Application Review

§1501. Applicability

A. This Chapter applies to permit applications for new facilities and ~~for~~ to applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

§1503. Definitions

A. For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Administratively Complete—in reference to an application for a permit, that the application contains all of the information necessary for the administrative processing of the application. Designating an application administratively complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information. Required application information submitted under separate cover or separately from the application shall cause the administrative completeness determination to be delayed until such information is received, processed, and verified along with the other application information.

~~*Complete*—repealed. in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.~~

* * *

Extraordinary Public Response—that situation that exists where the quality and/or quantity of comments ~~which that~~ are relevant and material to the permit are such as to necessitate additional time for agency department review.

Final Decision—action taken by the administrative authority a final decision to issue, deny, modify, ~~or~~ revoke and reissue, or terminate a permit.

New Facility—a pollution source (including all emission points and units of ~~such~~ the source located within a contiguous area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

Processing Day—except as otherwise provided herein, a day during which an application is available to the department for review and decision in the permit decision development process. Non-processing days include, but are not limited to, any day the department:

a. awaits from the applicant requested information that revises or supplements administrative or technical information or deficiencies in the application;
or

b. reviews the following information from the applicant, not to exceed 60 days per submittal:

i. department-requested information; or

ii. application revisions or additional information unsolicited by the department.

Substantial Permit Modification—a changes that substantially alters the permitted facility or its operation as follows:

a. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;

b. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;

c. for a Louisiana ~~Water~~ Pollutant Discharge Permit Elimination System (LWDPSLPDES) permit, any modification not processed as a minor modification under LAC 33:IX.~~307.D.2905~~; and

d. for an air quality permit, any modification ~~which~~ that results in a significant increase in the amount of any regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

Suspended Application—a permit application that is not eligible to be processed for a permit decision because administrative or technical information requested by the department has not been submitted by the applicant within the time period specified by the department. An application deemed suspended, if not denied, may be reinstated if the requested information is submitted to, and found to be adequate by, the department within six months from date of application suspension. In addition, the department may require the applicant to submit an updated application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:*.

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

A. Administrative Completeness Review

1. ~~Within 60 days after submittal~~ After receipt of a permit application for a new facilities or an application for a substantial permit modifications, the department shall perform an administrative completeness review and, if applicable, submit written notification to the applicant that lists the application's specific administrative deficiencies or additional information needed for application processing. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency or the request for additional information within ~~30 days after receipt of the notice of deficiency~~ the amount of time specified in the notice or request. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for ~~under LAC 33:I.1505.E~~ in Subsection E of this Section.

3. Within ~~40~~ 60 processing days from the date a permit application is submitted, the department shall:

- a. issue a letter of administrative completeness; or
- b. notify the applicant that the application has been suspended because the required administrative information has not been received within the amount of time specified by the department. ~~issue a notice of intent to deny the permit based on an incomplete application.~~

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division, Water Permits Division, or ~~Water and Waste Permits Division~~.

6. The requirement for publication of a notice of administrative completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.504, ~~502, 509~~, or 5103.

7. The requirement for publication of a notice of administrative completeness may be waived for applications for water quality permits for sources defined as minor by the administrative authority.

B. Technical Review

1. If at any time during the application review process the application is found to contain technical deficiencies, or if additional information is needed to correct or clarify the application, the department shall provide a written notice or request to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of technical deficiency or request for additional information within the time specified in the notice or request. This response shall be deemed adequate only if it contains all of the information specified in the notice of technical deficiency or request for additional information ~~and~~ as required by the department to complete the review of the application.

3. If the applicant does not supply the required information within the time period specified in the notice of technical deficiency or request for additional information, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

35. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The secretary or his designee shall issue a final decision within ~~440~~ 300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required: ~~The secretary or his designee may extend the deadline for a final decision for up to a total of 45 days for the following purposes:~~

- a. ~~to provide additional time~~ for the applicant to revise or supplement the application to address technical information or deficiencies in the application;
- b. ~~to allow~~ for adjudicatory or judicial proceedings under R.S. 30:2024; ~~or~~
- c. for required review by the United States Environmental Protection Agency; or
- d. ~~to consider~~ for consideration of comments received at a public hearing in the case of an extraordinary public response, however in no case shall the extension for consideration of comments exceed 45 days.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall perform an administrative issue notification of a completeness review determination to the applicant, and make a determination as follows.

a. If the application is deemed administratively complete, the department shall issue notification of the administrative completeness determination to the applicant.

~~2.~~ b. If the application is not deemed administratively complete, the department shall notify the applicant in writing and provide a list of the application's specific administrative deficiencies, and This notice shall specify the date by which the administrative information is to be submitted.

2. If, during the technical review, additional information is needed, the department shall notify the applicant in writing and shall specify the date by which the information is to be submitted.

3. If the applicant does not submit the required administrative or technical information within the specified time period as requested by the department, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

35. Within 60 workdays processing days after notification to the applicant of a complete permit application has been submitted to the department, the secretary or his designee shall issue a final decision to grant or to deny the permit.

46. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

57. If the secretary or his designee does not grant or deny the application permit within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division, ~~or Water Permits Division, or Water and Waste Permits Division~~, in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such an application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such a permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter ~~would~~ will be reinitiated upon the submittal of a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULESLOG #: **OS075**

Person

Preparing

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Rule Permit Application Review Timeline

Title: (LAC 33:I.1501, 1503, and 1505)

Date Rule

Takes Effect:: Upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effects on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is anticipated that this rule will result in proposed permitted activities' operations beginning sooner. Any new jobs associated with these permitted activities would therefore become available sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that this rule will have no effect on competition and employment among businesses within the State of Louisiana since the rule applies equally among all facilities to which it is directed.

It is anticipated that this rule will reduce the time needed to obtain a permit decision for a new facility, or for significant modifications to an existing facility, which could allow the State of Louisiana to better compete with other states for the operations of new or expanding businesses, resulting in more jobs for Louisiana citizens.

Signature of Agency Head or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Legislative Fiscal Officer or Designee

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule reduces the time periods for permit application completeness reviews and for issuance of final permit decisions. The periods are reduced to 60 and 300 days, respectively. In addition, definitions have been added to provide the applicant with more detail regarding the application review process, and new provisions have been added to correct incompleteness in permit applications and for suspension of applications pending such supplementation.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 117 of the 2006 Regular Legislative Session shortens the time period for administrative completeness review on environmental permit applications from 110 to 60 days, and reduces the time period on final environmental permit decisions from 410 days to 300 days.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) N/A Yes. If yes, attach documentation.

(b) N/A No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 06-07	FY 07-08	FY 08-09
PERSONAL SERVICES	0	0	0
OPERATING EXPENSES	0	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
TOTAL	0	0	0
MAJOR REPAIR & CONSTR	0	0	0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Normal operations will not be affected, or will only be minimally affected by this rule change; so there will be no costs or savings to the department as a result of the proposed rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (Specify)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

There are no costs to implement this rule change, so no funding source is required.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed action will have no impact on local government units, including adjustments in workload or paperwork requirements. No forms or applications will be changed. No additional forms will be required. LDEQ will identify and process these applications according to the new timelines, but there will be no additional requirements.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no impact; therefore no additional funds will be needed.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 06-07	FY 07-08	FY 08-09
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
RESTRICTED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

No increases or decreases in revenues are anticipated from the proposed action.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There will be no effect on any person or non-governmental group. The applicant's part of the process will be unchanged.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There may be a minimal beneficial impact from this rule change in the form of some additional local jobs. Since permit decisions will be issued sooner, permitted activities may begin sooner. Any new jobs associated with the permitted activities would then be available sooner.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is anticipated that this rule will have no effect on competition or employment among businesses within the State of Louisiana since the rule applies equally among all facilities to which it is directed.

It is anticipated that this rule will reduce the time needed to obtain a permit decision for a new facility, or for significant modifications to an existing facility. With the shortened timeframes associated with this rule, the State of Louisiana may be able to better compete with other states for the operations of new or expanding businesses. With more new business operations, there would be an increased opportunity for jobs for citizens of the State of Louisiana.